

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ARKADIY DUBOVOY, et al.

Defendants.

Redacted Version

Civil Action No.: 15-cv-06076
(MCA-MAH)

**DECLARATION OF DAVID
AMARYAN IN SUPPORT OF
THE MOTION TO MODIFY THE
ASSET FREEZE**

DAVID AMARYAN, declares under penalty of perjury as follows:

1. I am one of the defendants in the above-captioned action (“Action”). I make this declaration in support of the Amaryan Defendants’¹ application to modify the order freezing assets entered on October 16, 2015 (the “Asset Freeze”).

2. In our motion papers we ask the Court to allow trading in the Alpha Fund account. We also seek a reduction in the amount of overall assets frozen in the Copperstone Alpha Fund accounts to be set at no more than \$10 million. Third, we ask that we be permitted to pay operating expenses and legal fees from these frozen accounts. Fourth, we ask for the duration of the asset freeze to be no longer than no more than four months from the date of issuance, October 16, 2015.

Copperstone Capital

3. I am the founder and CEO of Copperstone Capital, a Cayman Islands investment firm. I am its sole director and the chair of the firm’s Investment Committee. Amabro Investments Limited (“Amabro”), a British Virgin Islands holding company, owns 100% of

¹ The “Amaryan Defendants” are David Amaryan, Copperstone Capital, Copperstone Alpha Fund (the “Alpha Fund” or the “Fund”), Ocean Prime Inc. (“Ocean Prime”) and Intertrade Pacific S.A. (“Intertrade”).

Copperstone Capital. Vardan Amaryan, my younger brother, is Amabro's sole director and owns 100% of Amabro. I previously owned 50% of Amabro with Vardan, but I have since divested myself of this interest.

The Alpha Fund: Management

4. Copperstone Capital is the Investment Manager of the Alpha Fund. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. In connection with its services as Investment Manager, Copperstone Capital is paid is the following fees:

[REDACTED]

[REDACTED]

[REDACTED]

6. Copperstone Capital is entitled to be paid a Management Fee of approximately [REDACTED] per month, based on approximately [REDACTED] in assets under management in the Alpha Fund. Approximately [REDACTED] in management fees have been accumulated thus far, but have not been paid, since entry of the TRO on August 24, 2015.

7. Pursuant to the above terms, Copperstone Capital is also entitled to a year-end Performance Fee. This fee will only be paid if Copperstone Capital passes its "high water mark."

The Alpha Fund high water mark per share is approximately 164.1. The NAV per share as of October 31, 2015 was approximately 135.9.

8. In addition, the Investment Management Agreement provides Copperstone Capital with indemnification protection and payment of legal fees. (Ex. A at ¶ 27.) The Investment Management Agreement expressly provides:

The Investment Manager (which in this Clause *shall include all directors, officers and employees of the Investment Manager* and any agent, sub-contractor or delegate appointed by the Investment Manager) shall not be liable for any loss or damage suffered by the Company or any Shareholder arising directly out of any act or omission, or any error of judgment or oversight or mistake of law on the part of the Investment Manager, made or committed in good faith in the performance of their duties hereunder, and the Investment Manager shall not in the absence of fraud, gross negligence or wilful default, be responsible for any loss or damage which the Company may sustain or suffer as the result of or in the course of the discharge of their duties hereunder and shall not in the absence of fraud, negligence or wilful default be liable for any loss occasioned by reason of the liquidation, bankruptcy or insolvency of any agent, sub-contractor or delegate appointed to the provisions hereof. *The Company shall indemnify and hold harmless the Investment Manager against all claims and demands (including costs and expenses arising therefrom or incidental thereto) which may be made against the Investment Manager in respect of any loss or damage sustained or suffered by any third party, otherwise than by reason of the fraud, gross negligence or willful default of the Investment Manager as aforesaid.*

(Ex. A at ¶ 27 (emphasis added).)

9. Accordingly, both myself individually, and Copperstone Capital the entity, are each entitled to indemnity from the Alpha Fund for the payment of our legal fees and related expenses. This is because we are each named as defendants in this legal proceeding. In addition, the Alpha Fund itself should be entitled to use the monies in its account to defend itself in this lawsuit, as it is also named as a defendant and is subject to the asset freeze.

The Alpha Fund: Ownership

10. The majority of the assets under management in the Alpha Fund belong to non-party investors, not to me.

11. None of the other investors have been named as defendants in this action, and they were not involved in any of the decision-making for the investments in the Alpha Fund.

12. There are currently ten investors in the Alpha Fund. My brother, Vardan Amaryan, holds approximately 23% in the Alpha Fund through Amabro and TDV.

13. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Copperstone Capital

14. There are a number of expenses, including employee salaries and operating expenses, which I am having difficulty paying due to the Asset Freeze.

15. As an overview, Copperstone Capital currently employs the following individuals at the usual monthly salary:

	<u>Name</u>	<u>Position(s)</u>	<u>Monthly Salary (in USD)</u>
1.	[REDACTED]	[REDACTED]	[REDACTED]
2.	[REDACTED]	[REDACTED]	[REDACTED]
3.	[REDACTED]	[REDACTED]	[REDACTED]
4.	[REDACTED]	[REDACTED]	[REDACTED]
5.	[REDACTED]	[REDACTED]	[REDACTED]
6.	[REDACTED]	[REDACTED]	[REDACTED]
7.	[REDACTED]	[REDACTED]	[REDACTED]

8.	[REDACTED]	[REDACTED]	[REDACTED]
9.	[REDACTED]	[REDACTED]	[REDACTED]
10.	[REDACTED]	[REDACTED]	[REDACTED]
11.	[REDACTED]	[REDACTED]	[REDACTED]
12.	[REDACTED]	[REDACTED]	[REDACTED]
13.	[REDACTED]	[REDACTED]	[REDACTED]
14.	[REDACTED]	[REDACTED]	[REDACTED]
15.	[REDACTED]	[REDACTED]	[REDACTED]
16.	[REDACTED]	[REDACTED]	[REDACTED]
17.	[REDACTED]	[REDACTED]	[REDACTED]
18.	[REDACTED]	[REDACTED]	[REDACTED]
19.	[REDACTED]	[REDACTED]	[REDACTED]
20.	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]		[REDACTED]
	[REDACTED]		[REDACTED]
<u>Total:</u>			\$ 194,700

16. Employees usually receive one to three times their monthly salary pay at the end of the year. It is customary in the industry to have large bonuses be the majority of take-home pay. It is also critical to retain top talent. Traders and portfolio managers usually get more, depending upon their own performance as well as the performance of the firm. As an estimate, Copperstone Capital should pay out approximately \$300,000 in bonuses at year-end.

17. As of August 2015 David Papazian, Vardan Amaryan and I have been working for Copperstone Capital without a salary. Only six employees are currently receiving their full salary, and the rest are currently on unpaid leaves of absence due to Copperstone Capital's inability to pay their salaries as a direct result of the Asset Freeze. I have worked hard to attract and retain top talent, and their expertise and services are required for Copperstone Capital to manage the accounts of our other clients unaffected by the Asset Freeze.

18. The following are the main categories of Copperstone Capital's monthly operating costs, including taxes, for the Moscow Office:

<u>Category of Expense</u>	<u>Amount (in USD)</u>
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<u>Total:</u>	\$42,700

19. The main categories of Copperstone Capital's monthly operating costs, including taxes, for the London office are as follows:

<u>Category of Expense</u>	<u>Amount (in USD)</u>
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<u>Total:</u>	\$15,000

20. The following details the cost to Copperstone Capital of IT services, which are essential in the firm's ability to follow the market and to develop and execute trading strategies:

<u>Category of Expense</u>	<u>Amount (in USD)</u>
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<u>Total:</u>	\$20,400

21. As a direct result of the Asset Freeze, Copperstone Capital is unable to pay for some of these basic business expenses as further addressed below and is being funded by myself directly, as the Company does not have sufficient funds to pay these expenses.

The Collateral Effects Of The Asset Freeze

22. The Asset Freeze has had a number of harsh collateral effects on my businesses.

23. For example, I was unable to fulfill a breach of contract on 1 September 2015 when a payment worth around \$1 million for oil and gas products was due. As a direct consequence, the extension of this contract into 2016 was denied, resulting in significant losses for my firm.

24. Unless the Asset Freeze is modified to permit the payment of ordinary business expenses, Copperstone Capital will soon be unable to meet its basic business obligations and needs. For example, we will be forced to forego the use of critical technology tools that are required for trading. Specifically, Copperstone Capital will have to cease using the Reuters news software in December, and terminate three of its four Bloomberg terminals on January 1, 2016.

25. Ocean Prime functions as an operating company through which I process and pay the operating expenses of my other companies, including an online fragrance business, a construction company, real estate company, and Copperstone Capital. As a direct result of the Asset Freeze, some of those unrelated businesses whose operating costs are paid through Ocean Prime are in jeopardy of defaulting on certain of their contracts with unrelated third parties. Thus, I am asking the Court to unfreeze the assets in this account or at the very least to allow me to withdraw \$272,800 per month to allow me to continue the operations of my businesses, and \$300,000 for year-end bonuses for my employees.

26. The money in the Alpha Fund was fully invested in securities and forward contracts at the time the Fund's assets were frozen. Because the initial Asset Freeze order and the

subsequent Asset Freeze prohibit our investment management team from actively managing the Fund, the assets therein are vulnerable to market volatility. In fact, the value of our clients' assets decreased about 9% in August alone, which was the worst monthly performance in the Fund's history.

27. As fiduciaries, we have a duty to preserve and increase the value of our clients' investments. A blanket freeze has severely hampered this ability. As such, it is imperative that the Court modify the Asset Freeze to permit trading in the market in the frozen accounts, while prohibiting withdrawals except as otherwise permitted by the Court.

28. I would also like to point out to the court that the SEC seized on language from my business school application that at the time I was managing \$300 million in assets. This money does not belong to me or Copperstone Capital, nor may I spend that money. The amount of assets under management that existed at the time I applied to school is irrelevant for the purposes of the substantial harm created by the Asset Freeze. They were never mine to spend and shortly after the SEC complaint was filed and served, those powers of attorneys and management contracts were suspended.

29. I maintain that I never possessed any inside information, nor did I ever trade on the basis of such information. I am eager for the opportunity to resolve this case on its merits and to clear my name. I have nothing to hide, and am prepared to open my firm's books and records to the SEC so it can be satisfied that my companies and I have done nothing wrong.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 13, 2015.
Moscow, Russia


DAVID AMARYAN